



March 30, 2007

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## ENGROSSED SENATE BILL No. 232

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DIGEST OF SB 232 (Updated March 27, 2007 3:03 pm - DI 107)

**Citations Affected:** IC 32-21.

**Synopsis:** Constructive notice of recording of mortgages. Provides that if certain recorded mortgages do not comply with certain acknowledgment requirements or technical recording requirements, the mortgage is a valid recording and provides constructive notice of the contents of the mortgage as of the date of filing.

**Effective:** July 1, 2007.

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**Zakas, Bray, Lanane, Steele, Broden**  
(HOUSE SPONSORS — PIERCE, FOLEY)

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January 8, 2007, read first time and referred to Committee on Judiciary.  
February 22, 2007, amended, reported favorably — Do Pass.  
February 26, 2007, read second time, amended, ordered engrossed. Engrossed.  
February 27, 2007, read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

March 6, 2007, read first time and referred to Committee on Judiciary.  
March 29, 2007, amended, reported — Do Pass.

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ES 232—LS 7034/DI 106+



March 30, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 232

A BILL FOR AN ACT to amend the Indiana Code concerning property.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 32-21-4-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) The following  
3 must be recorded in the recorder's office of the county where the land  
4 is situated:

5 (1) A conveyance or mortgage of land or of any interest in land.

6 (2) A lease for more than three (3) years.

7 (b) A conveyance, mortgage, or lease takes priority according to the  
8 time of its filing. The conveyance, mortgage, or lease is fraudulent and  
9 void as against any subsequent purchaser, lessee, or mortgagee in good  
10 faith and for a valuable consideration if the purchaser's, lessee's, or  
11 mortgagee's deed, mortgage, or lease is first recorded.

12 (c) **This subsection applies only to a mortgage made, serviced,**  
13 **or held by a mortgage lender that is an insurance company, a trust**  
14 **company, a bank, an investment company, a savings bank, a**  
15 **savings association, a credit union, or other entity authorized to do**  
16 **business in Indiana and that is regularly engaged in the business of**  
17 **mortgage lending. If:**

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1           (1) an instrument referred to in subsection (a) is recorded;  
2           and  
3           (2) the instrument does not comply with the:  
4                (A) acknowledgment requirements of:  
5                   (i) IC 32-21-2-3; or  
6                   (ii) IC 32-21-2-7; or  
7                (B) technical requirements of IC 36-2-11-16(c);  
8           the instrument is a valid recording, which provides constructive  
9           notice of the contents of the instrument as of the date of filing.

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## SENATE MOTION

Madam President: I move that Senator Bray be added as second author and Senators Lanane, Steele and Broden be added as coauthors of Senate Bill 232.

ZAKAS

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 COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 232, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 13 through 17, begin a new line block indented and insert:

- "(1) an instrument is recorded; and  
(2) the instrument does not comply with the:**

**(A) acknowledgment requirements of:**

- (i) IC 32-21-2-3;**
- (ii) IC 32-21-2-4;**
- (iii) IC 32-21-2-5; or**
- (iv) IC 32-21-2-7; or**

**(B) technical requirements of:**

- (i) IC 36-2-11-16; or**
- (ii) IC 36-2-11-16.5;**

**the instrument is a valid recording, and all parties are considered to have constructive notice of the contents of the instrument."**

and when so amended that said bill do pass.

(Reference is to SB 232 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

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## SENATE MOTION

Madam President: I move that Senate Bill 232 be amended to read as follows:

Page 1, line 16, after "IC 32-21-2-3;" insert "or".

Page 1, delete line 17.

Page 2, delete line 1.

Page 2, line 2, delete "(iv)" and insert "(ii)".

Page 2, line 3, after "of" delete ":" and insert "IC 36-2-11-16(c)".

Page 2, delete lines 4 through 5.

Page 2, line 6, delete "all parties are considered" and insert "is".

Page 2, line 7, delete "to have".

Page 2, line 7, after "instrument" insert "as of the date of filing".

(Reference is to SB 232 as printed February 23, 2007.)

ZAKAS

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 COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 232, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 12, after "(c)" insert "**This subsection applies only to a mortgage made, serviced, or held by a mortgage lender that is an insurance company, a trust company, a bank, an investment company, a savings bank, a savings association, a credit union, or other entity authorized to do business in Indiana and that is regularly engaged in the business of mortgage lending.**".

Page 1, line 13, after "instrument" insert "**referred to in subsection (a)**".

Page 2, line 2, delete "and is" and insert "**which provides**".

and when so amended that said bill do pass.

(Reference is to SB 232 as reprinted February 26, 2007.)

LAWSON L, Chair

Committee Vote: yeas 10, nays 0.

ES 232—LS 7034/DI 106+



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